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2 **UNITED STATES DISTRICT COURT**  
3 **DISTRICT OF NEVADA**

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6 AMERICAN MODERN PROPERTY AND  
CASUALTY INSURANCE COMPANY,

7 Plaintiffs,

8 v.

9 KEATON LUTHER, an individual; LUTHER  
10 CAPITAL, LLC, a Domestic Limited-Liability  
Company; RYAN A. ANDERSON, an  
11 individual; JONATHAN R. ANDERSON, an  
individual; ALIXANDRIA BURTON as Special  
12 Administrator of the ESTATE OF WALTER R.  
ANDERSON; ANDREW JAMES  
13 RODRIGUEZ, an individual; SABRINA  
JUENGER, an individual; SCOTT L. HUSS, an  
14 individual; ALL STAR CARS, LLC, a Domestic  
Limited-Liability Company; CORY  
15 MCCORMACK, an individual; JOSEPH  
16 CUELLER, an individual,

17 Defendants.

2:22-cv-00785-APG-VCF

**ORDER**

18 Before the Court is Plaintiff's motion for enlargement of time to serve defendants Andrew James  
19 Rodriguez, Scott L. Huss, Cory McCormack and Joseph Cueller (ECF No. 18) and motion for order for  
20 service by publication on defendants Andrew James Rodriguez and Scott L. Huss (ECF No. 19). Plaintiff  
21 is requesting an additional 90-day extension to effectuate service on defendants Andrew James Rodriguez,  
22 Scott L. Huss, Cory McCormack and Joseph Cueller. Plaintiff is also requesting service by publication  
23 for defendants Andrew James Rodriguez and Scott L. Huss. (ECF No. 19).

24 Plaintiff asserts that after diligent effort, it is unable to serve defendants Andrew James Rodriguez,  
25 Scott L. Huss, Cory McCormack and Joseph Cueller. In support of this assertion, Plaintiff provided the

1 court with the Declaration of Andrew James Rodriguez, Esq. on Due Diligence and correspondences with  
2 the process server listing the attempted services. (ECF No. 18-1 to 18-5, exhibits 1, 2, 3, 4, 5).

3 The process servers have attempted service at several addresses for Andrew James Rodriguez,  
4 Scott L. Huss, Cory McCormack and Joseph Cueller but were unsuccessful. *Id.*

5 Plaintiff will do a skip trace for McCormack and Cueller and additional time to perfect service is  
6 needed. (ECF No. 18 at p. 5).

7 Plaintiff states that Nationwide Legal has attempted service on Andrew James Rodriguez but the  
8 occupant of the residence where service was attempted refused to open the door. Plaintiff states the  
9 Rodriguez is under house arrest and resides at 2101 W. Warm Springs Road, Unit 3328, Warm Springs  
10 Road, Henderson, Nevada 89014. (ECF No. 19-1).

11 Plaintiff states that Nationwide Legal has attempted to serve Scott Huss. *Id.* at Exhibit 2.

12 A skip trace was run to obtain Huss' address and that the address was verified by Nationwide Legal by  
13 speaking with Mr. Huss. *Id.* at Exhibit 4. Nationwide Legal went to the address found by the skip trace  
14 on three different dates, at three different times but service was unsuccessful. *Id.* Plaintiff believes that  
15 Rodriguez and Huss are trying to evade service.

16 **Service By Publication**

17 Pursuant to Fed. R. Civ. P. 4(e)(1), “an individual – other than a minor, an incompetent person, or  
18 a person whose waiver had been filed – may be served in a judicial district of the United States by  
19 following state law for serving a summons in an action brought in courts of general jurisdiction in the state  
20 where the district court is located or where service is made.” Under Rule 4(e)(1) of the Nevada Rules of  
21 Civil Procedure, “when the person on whom service is to be made resides out of the state, or has departed  
22 from the state, or cannot, after due diligence, be found within the state, or by concealment seeks to avoid  
23 the service of summons, and the fact shall appear, by affidavit, to the satisfaction of the court or judge  
24 thereof, and it shall appear, either by affidavit or by a verified complaint on file, that a cause of action  
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exists against the defendant in respect to whom the service is to be made, and that the defendant is a necessary or proper party to the action, such court or judge may grant an order that the service be made by the publication of summons.”

The court finds that pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1), permitting service by publication of the Summons and Complaint is warranted on Andrew James Rodriguez and Scott L. Huss. Under Federal Rule of Civil Procedure 4(e), a plaintiff may serve an individual in the United States using any method permitted by the law of the state in which the district court is located or in which service is affected. Fed. R. Civ. P. 4(e)(1). Here, the last known address(es) of defendant Andrew James Rodriguez is 2101 W. Warm Springs Road, Unit 3328, Warm Springs Road, Henderson, Nevada 89014 and of defendant Scott L. Huss is 851 NE 1<sup>st</sup> Ave, Unite 2009, Miami, FL 33132-1843.

The Court GRANTS the motion for order for service by publication on defendants Andrew James Rodriguez and Scott L. Huss (ECF No. 19). The court finds that pursuant to Fed. R. Civ. P. 4(e)(1) and Nev. R. Civ. P. 4(e)(1), permitting service by publication of the Summons and Complaint is warranted on Rodriguez and Huss. Pursuant to Rule 4(e)(1)(iii), the publication must be made in a newspaper, published in the State of Nevada, for a period of 4 weeks, and at least once a week during said time. Nev. R. Civ. P. 4(e)(1)(iii).

### **Extension For Service**

Fed. R. Civ. P. 4(m) requires a defendant to be served within 90 days after the complaint is filed. If “the plaintiff shows good cause for the failure [to serve a defendant within that time-frame], the court must extend the time for service for an appropriate period.” Fed. R. Civ. P. 4(m).

Given that Plaintiff has demonstrated “good cause” for its failure to effectuate service, the court will extend the 4(m) deadline, up to and including November 28, 2022, for defendants Andrew James Rodriguez, Scott L. Huss, Cory McCormack and Joseph Cueller. *See* Fed. R. Civ. P. 4(m).

Accordingly, and for good cause shown,

1 IT IS HEREBY ORDERED that Plaintiff's motion for enlargement of time to serve defendants  
2 Andrew James Rodriguez, Scott L. Huss, Cory McCormack and Joseph Cueller (ECF No. 18) and motion  
3 for order for service by publication on defendants Andrew James Rodriguez and Scott L. Huss (ECF No.  
4 19) are GRANTED.

5 IT IS FURTHER ORDERED that Plaintiffs are permitted to serve Andrew James Rodriguez and  
6 Scott L. Huss by publication. A copy of the summons and amended complaint must be mailed to Andrew  
7 James Rodriguez and Scott L. Huss at their last known address(es) by certified U.S. Mail, return receipt  
8 requested.

9 IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 4(e)(1), Fed. R. Civ. P. 4(e)(1)  
10 permitting service by publication of the Summons and Complaint is warranted on Andrew James  
11 Rodriguez and Scott L. Huss. Pursuant to Rule 4(e)(1)(iii), the publication must be made in a newspaper,  
12 published in the State of Nevada, for a period of 4 weeks, and at least once a week during said time. Nev.  
13 R. Civ. P. 4(e)(1)(iii).

14 IT IS FURTHER ORDERED that the deadline to effect service of process is extended up to and  
15 including November 28, 2022, for defendants Andrew James Rodriguez, Scott L. Huss, Cory McCormack  
16 and Joseph Cueller.

17 DATED this 30th day of August 2022.



CAM FERENBACH  
UNITED STATES MAGISTRATE JUDGE